

1 IN THE HOUSE

BY MESSRS. HELLENTHAL AND ERWIN

2 HOUSE BILL NO. 257

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SECOND LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to adoptions."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 Section 1. Sec. 21-3-11, ACLA 1949, is repealed and re-
9 enacted to read as follows:

10 Sec. 21-3-11. WHO MAY ADOPT AND JURISDICTION. Any
11 person not married, any husband and wife jointly, either
12 spouse when the object of adoption is the child of the other
13 spouse, or either husband or wife who are not living to-
14 gether as such, may petition the superior court for the
15 adoption of any person.

16 Sec. 2. Sec. 21-3-12, ACLA 1949, as amended by Ch. 13, SLA
17 1951, is repealed and re-enacted to read as follows:

18 Sec. 21-3-12. CONSENT REQUIRED. a. For the purposes
19 of Secs. 21-3-11 to 21-3-24, ACLA 1949, inclusive, as amend-
20 ed, "minor" means any person under 19 years of age, "Depart-
21 ment" means the Department of Health and Welfare, and
22 "Bureau" means the Bureau of Vital Statistics.

23 b. Written consents as required by this section may
24 be filed with the petition or at any time after the petition
25 has been filed but before the hearing as prescribed in Sec.
26 21-3-15. Before a hearing may be had on a petition for the
27 adoption of any person, written consents must be executed
28 and filed by:

29 (1) The person to be adopted, if the person is

1 14 years of age or older, but the filing of the consent does
2 not obviate the necessity of filing other consents as re-
3 quired in the adoption of a minor.

4 (2) Each of the living parents, if the person to
5 be adopted is a minor of legitimate birth or one whose birth
6 has been subsequently legitimized, except as provided in
7 Sec. 21-3-13.

8 (3) The mother only, if living, if the person to
9 be adopted is a minor of illegitimate birth and not subse-
10 quently legitimized, except as provided in Sec. 21-3-13.
11 In adoptions of this category the consent of the natural
12 father need not be obtained or notice given him.

13 (4) The legal guardian of the minor, if the
14 authority to consent to an adoption has been legally acquired
15 by the guardian.

16 (5) The executive head of the Department or his
17 designee in cases where the minor has been committed to the
18 Department and authority to consent has been granted the
19 Department.

20 c. Any consent filed in connection with a petition for
21 adoption may be withdrawn at any time prior to the conclusion
22 of the hearing.

23 d. Consents by persons who do not wish knowledge of
24 where the minor is to be placed need not specify the name of
25 the proposed adopter.

26 e. Every consent shall be verified by the affidavit of
27 the person consenting. Each affidavit shall include a state-
28 ment that the consent was executed voluntarily, and if the
29 consent is made by the mother for the adoption of her child,

1 it shall also include a statement that the child was at least
2 3 days old at the time of executing the consent. A consent
3 of a mother to the adoption of her child is not valid unless
4 the child is at least 3 days old at the date of the execu-
5 tion of the consent.

6 f. Any person who assists, aids, abets, procures or
7 induces a mother to execute her consent before the birth of
8 her child to be adopted or before the child to be adopted is
9 at least 3 days old is guilty of a misdemeanor.

10 g. A consent filed concurrently with the petition shall
11 be deemed to be an admission of all the material allegations
12 of the petition and a waiver of service of process and
13 notice of hearing as well as a consent to the exercise of
14 jurisdiction. Consents filed after filing of petition must
15 embody an acceptance of service of petition and notice of
16 hearing and waiver of further notice.

17 Sec. 3. Sec. 21-3-13, ACLA 1949, is repealed and re-enacted
18 to read as follows:

19 Sec. 21-3-13. CONSENT NOT REQUIRED. No consent for
20 adoption of a minor is required as follows:

21 (1) From a parent who has been judicially deter-
22 mined to be of unsound mind unless the disability has been
23 removed, or whose parental rights have been terminated for
24 reasons of mental illness if any judicial proceeding.

25 (2) From a parent who is imprisoned in the peni-
26 tentiary at the time of the filing of the petition, under
27 sentence for a term of not less than three years and whose
28 parental rights have been terminated in any judicial pro-
29 ceeding.

1 (3) From a parent whose abandonment of a minor
2 has been previously established and whose parental rights
3 have been terminated in any judicial proceeding.

4 (4) From a parent judicially determined to be an
5 unfit person to have the care and custody of the minor and
6 whose parental rights have been terminated in any judicial
7 proceeding.

8 (5) From a divorced parent who was not awarded
9 full or parttime custody of their minor child.

10 Sec. 4. Sec. 21-3-14, ACLA 1949, is repealed and re-enacted
11 to read as follows:

12 Sec. 21-3-14. The pleadings, notice, hearings and other
13 matters of procedure are governed by rules promulgated by the
14 supreme court.

15 Sec. 5. Sec. 21-3-18, ACLA 1949, is amended to read as
16 follows:

17 Sec. 21-3-18. DECREE AND ORDER. a. Upon the conclu-
18 sion of such hearing, the Court shall enter its decree either
19 granting or denying the petition, as follows: If the Court
20 is satisfied with the identity and relations of the persons,
21 and that the petitioner is of sufficient ability and in all
22 respects a fit and proper person to bring up the minor
23 [CHILD], and all other requirements of this Act have been
24 met, the petition shall be granted; otherwise the petition
25 shall be denied and the Court shall determine the matter of
26 custody of the minor. The decree will be final unless
27 reversed on appeal [TO THE DISTRICT COURT].

28 b. Appeal may be taken in the manner provided for
29 appeals from the superior court in other civil matters [HAD

1 AS IN OTHER PROBATE CASES], and the Department [OF PUBLIC
2 WELFARE] may exercise said right of appeal in any case
3 where the minor [CHILD] has been previously committed to its
4 custody [AND STATED IN SECTION 2(E) HEREOF]. If the decree
5 grants adoption, and, in the event of appeal the decree [,]
6 is sustained [BY THE DISTRICT COURT], it shall be final.
7 [A FINAL DECREE SHALL, HOWEVER, BE SUBJECT TO THE PROVISIONS
8 OF SECTION 9 HEREOF BEFORE BECOMING ABSOLUTE.] This decree
9 so entered shall become effective as of the date the peti-
10 tion for adoption was filed, and shall contain an order
11 granting custody of the minor [CHILD] to the adoptive parent
12 or parents, and, if same has been requested, the issuance
13 and filing of a substitute birth certificate as hereinafter
14 provided.

15 Sec. 6. Sec. 21-3-20, ACLA 1949, as repealed and re-enacted
16 by Ch. 66, SLA 1951, is repealed and re-enacted to read:

17 Sec. 21-3-20. SUBSTITUTE BIRTH CERTIFICATE. Substi-
18 tute birth certificates shall be provided in the manner
19 prescribed by the Vital Statistics Act.

20 Sec. 7. Sec. 21-3-21, ACLA 1949, is amended to read as
21 follows:

22 Sec. 21-3-21. EFFECT OF ADOPTION [ADOPTION TERMINATES
23 RELATIONSHIP OF PARENT AND CHILD]. a. By a decree of adop-
24 tion, the natural parents, other than a spouse of an adopter,
25 shall be divested of all legal rights and obligations in
26 respect to such person adopted [CHILD], but the person
27 adopted shall continue to have the same rights of inheritance
28 from the natural parents as prescribed by the statutes of
29 descent and distribution for natural children. [, AND THE]

1 The person adopted [CHILD] shall be free from all legal
2 obligations of obedience and maintenance in respect to them,
3 and shall be, to all intents and purposes, and as to all
4 legal incidents, the child, legal heir, and lawful issue of
5 his or her adopter or adopters. The person adopted shall be
6 [,] entitled to all rights and privileges, including the
7 right of inheritance, which includes but is not limited to
8 those rights provided in Sections 59-4-1 and 59-4-3, ACLA
9 1949, and the right to take testamentary disposition, and
10 shall be subject to all the obligations of a child of the
11 adopter or adopters as though begotten by them in lawful
12 wedlock.

13 b. An adopter or adopters and the spouse of an adopted
14 person [CHILD], and their respective kin, shall have the
15 rights of inheritance from such adopted person [CHILD] as
16 prescribed by the statutes of descent and distribution for
17 natural parents, spouse and their respective kin to the
18 exclusion of the adopted person's [CHILD'S] natural parents
19 and kin, and any prior adopter or adopters and their kin;
20 provided, that in cases where a natural parent is the spouse
21 of an adopter, such natural and adopted parent and kin shall
22 inherit the same as natural parents and their kin.

23 Sec. 8. Sec. 21-3-22, ACLA 1949, is amended to read as
24 follows:

25 Sec. 21-3-22. RECORDS TO BE SEALED. All records of any
26 proceedings hereunder shall, after final termination, be
27 sealed and shall not thereafter be open to inspection by any
28 person except upon order of the Court, for good cause shown
29 and thereafter shall be again sealed as before.

1 [ORIGINAL BIRTH RECORDS NOW ON FILE IN THE OFFICE OF THE
2 REGISTRAR OF VITAL STATISTICS OF ANY CHILD ADOPTED SINCE
3 1913, SHALL BE SEALED AND SUBSTITUTE BIRTH CERTIFICATE
4 ISSUED BY SAID REGISTRAR IN THE MANNER AND FORM PRESCRIBED
5 IN SECTION 10 HEREIN, AND TRANSMITTED TO THE ADOPTERS.]

6 Sec. 9. Sec. 21-3-24, ACLA 1949, is repealed and re-enacted
7 to read as follows:

8 Sec. 21-3-24. RETROSPECTIVE EFFECT. In all adoption
9 proceedings, whether held before or after the effective date
10 of this Act, the clerk of the superior court shall, upon the
11 request of the adoptive parent or parents or person adopted,
12 send a certified copy of the adoption decree to the Bureau.
13 The Bureau shall issue a substitute birth certificate in the
14 manner provided by the Vital Statistics Act.

15 Sec. 10. CONSTRUCTION. The rule that statutes in derogation
16 of common law are to be strictly construed does not apply to the
17 adoption laws of this state.

18 Sec. 11. PENALTIES. a. Any person who offers or agrees to
19 place their unborn child for adoption for the consideration of
20 receiving any compensation or thing of value in excess of any
21 actual medical expenses directly related to the prenatal care and
22 delivery of the child is guilty of a misdemeanor.

23 b. Any person, agency, association, corporation, institution
24 society or other organization which offers or agrees to adopt or
25 assist in the placement for adoption of any unborn child and also
26 offers as a part of the consideration any compensation or thing of
27 value in excess of actual medical expenses directly related to the
28 prenatal care and delivery of the child is guilty of a misdemeanor

29 c. Any person, agency, association, corporation, institution

1 society or other organization which pays or accepts any compensa-
2 tion or thing of value for the adoption of an unborn child in any
3 amount in excess of the actual medical expenses directly related
4 to the prenatal care and delivery of the child is guilty of a mis-
5 demeanor.

6 Sec. 12. REPEALS. Secs. 21-3-15, 21-3-16, 21-3-17, and 21-
7 3-19, as amended, are repealed.

8 Sec. 13. Any proceeding in which an adoption petition has
9 been filed prior to the effective date of this Act is not affected
10 by any provision of this Act except the penalty provisions.

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